86-1253 (1)

Supreme Court, U.S.
FILED
DEC 29 1986
JOSEPH F. SPANIOL, JR.
CLERK

No.

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1986

JACK E. FLEMING,

Petitioner

vs.

GRIEVANCE COMMITTEE COUNCIL OF COLORADO,

Respondent

PETITION FOR A WRIT OF CERTIORARI ON APPEAL AND/OR REVIEW FROM THE SUPREME COURT OF COLORADO GRIEVANCE COMMITTEE

SUBMITTED BY:

Jack E. Fleming
3624 Citadel Dr. No. #250
Colo. Springs, CO. 80909
(303) 597-1971

Petitioner - Pro se.

30

QUESTIONS PRESENTED FOR REVIEW

1. Can the Grievance Committee absolutely refuse to proceed against an attorney pursuant to CRCP Rules 241.9, 241.10 and 241.11 even though allegations were made in writing by the complainant against that attorney, which if proven, would constitute grounds for discipline pursuant to CRCP Rule 241.6?

2. Did the Petitioner state allegations in his request for investigation to the Committee which, if proven, would constitute grounds for discipline pursuant to CRCP Rule 241.6, and therefore, warrant that the Committee proceed under CRCP Rules 241.9(b)(1)(2) and 241.10 against Stanley C. Kent, Esq. at least to the point that the Petitioner could proceed against Mr. Kent on his own pursuant to CRCP Rule 241.11(a)(1)(2)?

3. Did the Grievance Committee invoke the jurisdiction of CRCP Rule 241.9(b)(2) when they wrote a letter to Mr. Kent as stated in their letter of May 15, 1986, and therefore, brought in the jurisdiction of CRCP

Rule 241.10(a) when Mr. Kent answered the Committee's letter by responding to the request for investigation and the Petitioner's allegations as so stated in CRCP Rule 241.10(a) which states as follows:

> Upon receipt of the lawyer's response, or at the expiration of the twenty day period if no response is received, the matter shall be referred to an inquiry panel for investigation and report.

4. Does the Grievance Committee have a statutory and/or moral obligation under the Colorado Revised Statutes, namely, Chapter 20 of Volume 7A to proceed as stated in CRCP Rules 241.9 and 241.10 and investigate all legitimate and serious allegations made in writing against a lawyer pursuant to CRCP Rule 241.6 at least to the point that the complainant can proceed on his own against the lawyer as provided for in CRCP Rule 241.11(a)(1)(2)?

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JURISDICTION OF THE COURT

1. The date of the judgment and/or order sought to be reviewed is August 29, 1986. The Petitioner filed with the Court an application for an extension of time in which to file a petition for a writ of certiorari on November 18, 1986. On November 24, 1986, Associate Justice of the Supreme Court of the United States Byron R. White signed an order granting

the Petitioner an extension of time in which to file the petition for writ of certiorari up to and including January 2, 1987.

2. There are no orders for a rehearing.

3. There has been no cross-petition for writ of certiorari filed under Rule 19.5 to date.

4. The Petitioner believes that the statutory provision believed to confer on this Court jurisdiction to review the judgment or decree in question by writ of certiorari is 28 USCA 1257.

No. _____

IN THE
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OCTOBER TERM, 1986

JACK E. FLEMING,

Petitioner

vs.

GRIEVANCE COMMITTEE COUNCIL OF COLORADO,

Respondent

PETITION FOR A WRIT OF CERTIORARI
ON APPEAL AND/OR REVIEW FROM THE SUPREME
COURT OF COLORADO GRIEVANCE COMMITTEE

JACK E. FLEMING hereby petitions that a Writ of Certiorari be issued to review the judgment and/or decrees of the Colorado Supreme Court Grievance Committee entered on August 29, 1986.

OPINIONS BELOW

The judgment, orders and/or decrees of the Colorado Supreme Court Grievance Committee are set forth in the appendix at pages App. 1 - 18.

STATEMENT OF THE CASE

JACK E. FLEMING (hereinafter referred to as "Petitioner") filed a request for an investigation with the Colorado Supreme Court Grievance Committee (hereinafter referred to as "Respondent") against Stanley C. Kent, Esquire on May 8, 1986. On May 15, 1986, the Respondent sent a letter to Mr. Kent regarding Petitioner's request for investigation. Mr. Kent then responded to the Respondent's inquiry on May 27, 1986, June 9, 1986 and July 1, 1986. On July 15, 1986, the Respondent sent a letter to the Petitioner stating as follows:

> In view of the information each of you has submitted it seems that the facts presently known to each of us do not, as a matter of disciplinary law, constitute grounds for discipline. Accordingly, I do not believe that investigation is warranted.

On July 19, 1986, the Petitioner wrote a letter to the Respondent expressing his opinion of the Respondent's decision. On July 25, 1986, the Respondent then responded to the Petitioner's letter of July 19,

1986. On August 7, 1986, the Petitioner then filed with the Respondent a complaint against Stanley C. Kent, Esquire including a $500.00 deposit pursuant to CRCP Rules 241.11(a)(1)(2) and 241.12(a)(2)(b). On August 14, 1986, the Respondent sent a letter to the Petitioner returning the complaint plus the $500.00 deposit filed against Mr. Kent stating that the complaint was inappropriate because a determination not to proceed had been made by the Respondent pursuant to CRCP Rule 241.9. On August 18, 1986, the Petitioner wrote a letter to Chief Justice Joseph R. Quinn of the Colorado Supreme Court asking for his help in resolving this matter within the Supreme Court. On August 29, 1986, Chief Justice Joseph R. Quinn wrote a letter to the Petitioner stating that there was nothing that he could do in this situation.

The Petitioner would like now to refer the Court to a letter written by James P. Hollaway, Grievance Committee Counsel, on

November 6, 1984 to the Petitioner regarding grievance procedure in Colorado. As stated in Hollaway's letter, there is no appeal process available to the Petitioner within the grievance procedure of the Colorado Supreme Court. The Petitioner discovered in Lynk v. LaPorte 789 F2d 554 (7th Cir. 1986) that this Court could help when that U. S. Court of Appeals ruled as follows:

> Litigant who is stymied by state procedural ruling from which he cannot appeal can ask United States Supreme Court to review ruling. 28 USCA 1257.

REASONS FOR GRANTING WRIT

The Petitioner filed his request for investigation against Mr. Kent with the Respondent in good faith. The Petitioner knew Mr. Kent well, and the facts alleged in the complaint were based on an actual association with Mr. Kent for over five (5) years. Mr. Kent served as the attorney for a real estate partnership known as F & S Warehouse for that length of time. The Petitioner was one of two (2) general part-

ners in that partnership. In his complaint to the Grievance Committee against Mr. Kent, the Petitioner alleged that he and the only other general partner, Mr. George C. Seeger, had committed fraud against the Petitioner while he was legal counsel for the general partnership. Petitioner also alleged that Kent had violated certain state statutes during his tenure as counsel for the partnership. Petitioner also alleged that Kent had committed outrageous conduct toward the Petitioner, breached his employment agreement with the Petetioner, breached the fiduciary duty owed to the Petitioner as counsel for the partnership and had exhibited extreme bad faith in his dealings with the Petitioner. The Petitioner also alleged that Kent had violated Canons 1, 2, 4, 5, 7 and 9 of his Code of Professional Responsibility in his dealings with him. The Petitioner expected the Respondent to respond to the request and investigate the allegations as stated by the Petitioner in his request for an investigation. When

officials within the Respondent refused to investigate the allegations of the Petitioner based on a technicality, the Petitioner sought the help of the Chief Justice of the Colorado Supreme Court. The Chief Justice agreed with the Respondent based on the technicality, and therefore, refused to help the Petitioner in the matter.

The Respondent has been established by the Colorado legislature for the express purpose of monitoring and controlling the conduct of lawyers in dealing with the public and disciplining those lawyers who cannot operate within the laws of Colorado, the laws of the United States and the Code of Professional Responsibility. There is no appeal within the State of Colorado for a decision made by the Respondent except as was done by the Petitioner in this case, and that was rejected by the Chief Justice of the Colorado Supreme Court.

The Statement of Policy regarding discipline of lawyers and appropriate jurisdiction can be found in CRCP Rule 241.1(a)

(b) which reads as follows:

> (a) Statement of Policy. All members of the Bar of Colorado, having taken an oath to support the Constitution and laws of this state and of the United States, are charged with obedience to those laws at all times. As officers of the Supreme Court of Colorado, lawyers must observe the highest standards of professional conduct. A Licensce to practice law is a proclamation by this Court that its holder is a person to whom members of the public may entrust their legal affairs with confidence, that the lawyers will be true to that trust, that he will hold inviolate the confidences of his client, and that he will competently fulfill the responsibilities owed to his client and to the courts. In order to maintain the highest standards of professional conduct, lawyers who have demonstrated that they are unable, or are unlikely to be able to discharge their professional responsibilities shall be subject to appropriate disciplinary proceedings.
>
> (b) Jurisdiction. Every lawyer licensed to practice law in the State of Colorado is subject to the disciplinary and disability jurisdiction of the Supreme Court in all matters relating to the practice of law. Every lawyer specially admitted to practice law in this state pursuant to CRCP 221 or CRCP 221.1 is subject to the disciplinary and disability jurisdiction of the Supreme Court for conduct related to that proceeding.

The Supreme Court of Colorado has made rulings over the years in response to that Statement of Policy and Jurisdiction. Some

of these rulings are found in People v. Kendrick 646 P2d 337 (Colo. 1982), People v. Dixon 621 P2d 332 (Colo. 1981) and People v. Meldahl 615 P2d 29 (Colo. 1980) where the Court ruled as follows:

> License to practice law assures public that the lawyer who holds the license will perform basic legal tasks honestly and without undue delay in accordance with the highest standards of professional conduct.

The Colorado Supreme Court ruled in People v. Golden 654 P2d 853 (Colo. 1982) as follows:

> An attorney must adhere with dedication to the highest standards of honesty and integrity in order that members of the public are assured that they may deal with attorneys with the knowledge that their matters will be handled with absolute propriety.

The Colorado Supreme Court ruled in the area of attorney conduct to the degree that public expects appropriate discipline for misconduct. In People v. Kendrick, supra, People v. Dixon, supra, People v. Meldahl, supra and People v. Witt 616 P2d 139 (Colo. 1980), the Court ruled as follows:

> The public has a right to expect that one who engages in professional misconduct shall be disciplined appropriately.

In People v. Susman 587 P2d 782 (1978), the Supreme Court of Colorado ruled as follows:

> Supreme Court has, as part of inherent powers, ultimate and exclusive responsibility for the structure and administration of disciplinary proceedings against lawyers.

The people of the State of Colorado have an absolute right to expect that lawyers will be disciplined for their misconduct, and the Colorado Supreme Court has the authority to do so. If the Supreme Court refuses to investigate serious allegations regarding the conduct of an attorney practicing in the State of Colorado, the people of the State of Colorado including the Petitioner have no place to go because there are no remedies within the State of Colorado. Attorneys who violate the laws of Colorado, the United States and the Code of Professional Responsibility, must be disciplined accordingly.

CONCLUSION

If this Court decides to review this case and rule on the questions, these rulings by the Court in this matter will undoubtedly have an effect on the grievance procedures in all of the states in the United States.

Wherefore, the Petitioner respectfully requests that this Court grant this petition for writ of certiorari for the foregoing reasons so this matter can be reviewed by the only Court in the United States with jurisdiction left to do so.

Respectfully submitted,

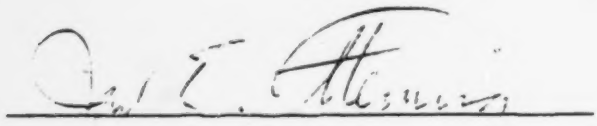
Jack E. Fleming, Petitioner
3624 Citadel Dr. No. #250
Colo. Springs, Colo. 80909
(303) 597-1971

Petitioner - Pro se.

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the Petitioner's Petition For Writ Of Certiorari including all exhibits, postage pre-paid, this 15th day of December, 1986 to:

James P. Hollaway, Esquire
Supreme Court Grievance Committee
600 - 17th Street, Suite 500S
Denver, Colorado 80202-3393



A P P E N D I X

App. 1

EXHIBIT "A"

GRIEVANCE COMMITTEE
SUPREME COURT - STATE OF COLORADO
190 East 9th Avenue
Suite 440
Denver, Colorado 80203
(303) 832-3701

November 6, 1984

PERSONAL AND CONFIDENTIAL

Jack E. Fleming
4720 Vista View Lane
Colorado Springs, Colorado 80915

Dear Mr. Fleming:

This is in response to your letter of October 19, 1984. My letter of October 15, 1984, by which I advised you of the Inquiry Panel's decision, refers to both of your requests for investigation, as they were consolidated into one case.

The rules governing the disciplinary process in Colorado provide not for an "appeal", but for the prosecution of your complaint either by yourself or with assistance of counsel. I have enclosed a copy of Rules 241.11, 241.13, 241.13, 241.14 and 241.15 for your information. By the

way, all of the rules can be found in Vol. 7A, C.R.S. (pocket part).

Investigations are initiated when a complainant alleges in writing facts which, if proven, would constitute grounds for discipline. Rule 241.6 and Rule 241.9.

There are approximately 274 Disciplinary rules in the Code of Professional Responsibility. The Code itself is an appendix to Chapters 18-20 in Volume 7A, C.R.S. Volumes have been written about the Code. For the sort of detail you might be looking for, I can only refer you to your local law library or the Supreme Court library.

Sincerely,

/s/ James P. Hollaway

James P. Jollaway
Committee Counsel

JPH/lr

Enclosures

App. 3

EXHIBIT "B"

GRIEVANCE COMMITTEE
SUPREME COURT - STATE OF COLORADO
Dominion Plaza
600 - 17th Street, Suite 500S
Denver, Colorado 80202-5435
(303) 893-3393

CERTIFIED MAIL NO:
P068 262 536
RETURN RECEIPT
REQUESTED

August 14, 1986

PERSONAL AND CONFIDENTIAL

Mr. Jack E. Fleming
3624 Citadel Drive North, Suite 250
Colorado Springs, Colorado 80909

Re: Request for Investigation of Stanley Kent.

Dear Mr. Fleming:

This office recieved your request for investigation on May 8, 1986. On May 15, 1986, under Rule 241.9(b)(1) and (2), as amended, Ms. Berk sent a letter to Mr. Kent (with a copy to you) to determine whether this office should proceed with an investigation under Rule 241.10.

On June 2, 1986, Ms. Berk received a

three-page letter from Mr. Kent with several exhibits attached. On June 11, 1986, she received a supplemental answer and exhibits. After reviewing the letter received on June 2, 1986, and the June 11, 1986, correspondence, Ms. Berk sent an additional letter to Mr. Kent on June 19, 1986, asking him to address an issue which she did not feel had been answered. He responded by letter dated July 1, 1986, received July 7, 1986.

On July 15, 1986, Ms. Berk notified you that she did not believe an investigation was warranted. Hence, an investigation was not commenced pursuant to Rule 241.10. You questioned that decision in a letter dated July 19, 1986, received by this office on July 21, 1986. Ms. Berk responded to your remarks in her letter to you dated July 25, 1986.

I have now reviewed the entire file, and I agree with her decision.

Rule 241.11 allows a complainant to file a complaint in his own name and post a $500 bond if, pursuant to 241.9 a deter-

mination has been made to proceed and if, after submitting a report to the Inquiry Panel, the case is dismissed. Since a determination has been made under 241.9 not to proceed with an investigation, the procedures outlined in Rule 241.11 are not available to you. Hence, your money order is being returned, together with your complaint.

Moreover, since we remain convinced that your allegations are not supported by sufficient evidence, further action by this office will not be undertaken.

Sincerely,

/s/ James P. Hollaway

JAMES P. HOLLAWAY
Committee Counsel

JPH/pjm

encls.

App. 6 EXHIBIT "C"

3624 Citadel Drive North, Suite250
Colorado Springs, Colorado 80909

August 18, 1986

CERTIFIED MAIL NO. P311 561 247
RETURN RECEIPT REQUESTED

Honorable Chief Justice Joseph R. Quinn
Supreme Court of Colorado
State Judicial Building
2 East 14th Avenue
Denver, Colorado 80203

Reference: Grievance complaint filed against Stanley C. Kent on August 7, 1986.

Dear Chief Justice Quinn:

On May 8, 1986, I filed a request for investigation with the Grievance Committee on Stanley C. Kent pursuant to CRCP Rule 241.9(a)(1). It is my opinion that the Grievance Committee made a determination to proceed on this request pursuant to Rule 241.9(b)(1)(2) because they did send a copy of the request for investigation with the allegations to Mr. Kent on May 15, 1986. (Copy of letter, Exhibit A is attached). The Committee admitted in the first paragraph of their letter to me dated August 14, 1986 that they complied with 241.9(b)

(1)(2). (Copy of letter, Exhibit B, is attached). The Committee then proceeded under Rule 241.10(a) which reads as follows:

> If pursuant to CRCP Rule 241.9 a determination is made to proceed, the lawyer in question shall be given written notice by the Committee Counsel of the fact that he is under investigation by the Committee and of the general nature of the allegations made against him. The lawyer in question shall have twenty days after notice of the investigation is given to file with the Committee Counsel a written response to the allegations made against him.

The allegations were sent to Kent and he responded to them on three different occasions. (See Exhibits A and B). This means that the Committee had made a determination to proceed, and therefore, were proceeding pursuant to 241.10. You cannot get to 241.10 without complete compliance with 241.9. The Committee, according to 241.9, had made a determination to proceed when they sent the allegations to Kent for his answer on May 15, 1986. (See Exhibit A). The Committee then should have complied with the rest of Rule 241.10(a)

which reads as follows:

> Upon receipt of the lawyer's response or at the expiration of the twenty day period if no response is received, the matter shall be referred to an inquiry panel for investigation and report.

Mr. James Hollaway states in Exhibit B that Ms. Nancy Berk did not believe an investigation was warranted and that he agrees with her. If Nancy Berk did take it upon herself to not comply with 241.10 as stated in Volume 7A of the CRS, then she has intentionally denied me DUE PROCESS OF LAW as described in 241.10. The rules do not indicate that Nancy Berk or anyone else in the Committee can make that decision themselves regarding whether or not an investigation is warranted. Once the determination to proceed has been made, then all subsequent rules have to be followed as stated. I now refer you to Rule 241.10(b)(1) which states as follows:

> A member of the Committee, the Committee Counsel, a member of the Committee Counsel's staff, or a lawyer enlisted pursuant to CRCP Rule 241.2(b)(1) may act as Investigator. The Investigator

BEST AVAILABLE

COPY

> shall conduct an investigation of the allegations made against the lawyer in question.

Rule 241.10(b)(1) states that the Investigator will make an investigation of the allegations. There are no other options available according to the rule. It is my contention that the Investigator did investigate the allegations and answers because the rules state that is what is to be done. If the Investigator did not investigate, then I have been intentionally denied DUE PROCESS OF LAW as stated in 241.10.

It is my contention that Rule 241.11(a) was complied with at this point, and the inquiry panel ruled according to Rule 241.11 (a)(2). (See copy of letter, Exhibit C, is attached). It is my contention that these rules are to be complied with as stated in the CRCP. Any deviation from these

rules by someone in the Grievance Committee denies the complainant DUE PROCESS OF LAW.

I now refer you to a letter written to me by Mr. James Hollaway on November 6, 1984. (See copy of letter, Exhibit D, which is attached). In that letter Mr. Hollaway states in paragraph three as follows:

> Investigations are initiated when a complainant alleges in writing facts which, if proven, would constitute grounds for discipline. Rule 241.6 and 241.9.

I cannot believe that Ms. Nancy Berk and Mr. James Hollaway feel none of the facts I alleged in my request for investigation dated May 8, 1986 against Kent, if proven, would not constitute grounds for discipline. Rules 241.6 and 241.9. Mr. Hollaway also states in that same letter (Exhibit D) as follows:

> The rules governing the disciplinary process in Colorado provide not for an "appeal", but for the prosecution of your complaint either by yourself or with the assistance of counsel. I

> have enclosed a copy of Rules 241.11, 241.13, 241.14 and 241.15 for your information. By the way, all of the rules can be found in Volume 7A CRS (Pocket Part).

This letter of Mr. Hollaway clearly states that I have the right to prosecute my own case against Mr. Kent.

I now submit to you a copy of a letter I wrote to Nancy Berk on July 19, 1986. (See Copy of letter, Exhibit E, which is attached). The intent of this letter was to point out that Nancy Berk was not complying with the CRCP as written. Nancy Berk then replied to my letter with her own letter dated July 25, 1986. (See copy of my letter, Exhibit F, which is attached).

I then hand delivered to the Grievance Committee on August 7, 1986 a complaint in my own name against Stanley C. Kent pursuant to CRCP as stated in that letter. (See copy of letter, Exhibit G, which is attached). The Grievance Committee then sent back to me the complaint and copies thereof plus the $500 deposit as noted in their letter dated August 14, 1986. (See Exhibit B).

The reason for the return of all documents was stated in their letter as follows:

> Rule 241.11 allows a complainant to file a complaint in his own name and post a $500 bond, if pursuant to 241.9 a determination has been made to proceed and if, after submitting a report to the Inquiry Panel, the case is dismissed. Since a determination has been made under 241.9 not to proceed with an investigation, the procedures outlined in Rule 241.11 are not available to you. Hence, your money order is being returned, together with your complaint.

This statement by Mr. Hollaway is in error. A determination to proceed with an investigation was made under 241.9 and 241.10 and the Committee proceeded onto Rule 241.10. Rule 241.9 and 241.10 were complied with because written notice of the request for investigation was sent to Kent and he responded to the allegations on three different occasions. If Nancy Berk decided not to proceed under 241.10, then she decided this on her own or with the consent of Mr. Hollaway, and this was in direct violation of Rule 241.10. Rule 241.10(a) states that the matter shall be referred to an inquiry

panel for investigation and report.

I have brought this matter to your personal attention in hopes that this can be resolved within the Supreme Court. If the Grievance Committee has made a mistake or error in their determination of the rules, I hope you can point this out to them, and I can proceed with my complaint against Mr. Kent. If I do not hear from you in regards to this matter within twenty (20) days of the date of this letter, I will assume you have no interest in this matter. If you need more time to resolve this problem, please let me know because I have no objection to allowing additional time. In any event, if I do not hear from you regarding this matter, I will proceed onto the U. S. District Court, District of Colorado to seek declaratory and injunctive relief because of the violation of my civil rights.

Mr. James Hollaway and Ms. Nancy Berk are doing everything in their power to pre-

vent me from using the grievance procedure against Mr. Kent as established by the Colorado Rules of Civil Procedure. What their motive is, I do not know. They are intentionally making false statements regarding Rules 241.9 and 241.10 as they pertain to this case. The question is, Does the State of Colorado have a grievance procedure against Lawyers? If so, who gets to use it and when? Are the rules as outlined in Volume 7A of the CRS going to be followed or not? Do individuals within the Grievance Committee have the power and authority to pick and choose who will be prosecuted and who will not regardless of the allegations made by the complainant? It appears that the Grievance Committee no longer protects the citizens of Colorado from the lawyers, but the Committee protects the lawyers from the citizens of Colorado.

It is my belief that the Grievance Committee is dead wrong on this matter, and the Supreme Court will feel that this mat-

ter should be resolved within the Supreme Court. If I have the right to move against Kent in my own name, then I want to proceed in that direction as soon as possible. If the Supreme Court agrees with the Grievance Committee, I would like to know why they agree with the Committee. If I go to the U. S.District Court, I will file a complaint based on the violation of my civil rights, namely, abuse of DUE PROCESS OF LAW as guaranteed by the 5th and 14th amendments to the U. S. Constitution. If I do this, this matter will no longer remain in a confidential status.

Sincerely yours,

/s/ Jack E. Fleming

Jack E. Fleming
(303) 597-1971

JEF/jef

cc: Stanley C. Kent
James P. Hollaway
Enclosures: Exhibits A through G

EXHIBIT "D"

SUPREME COURT OF COLORADO
State Judicial Building
2 East 14th Avenue
Denver, Colorado 80203

(303) 861-7330

JOSEPH R. QUINN
Chief Justice

August 29, 1986

PERSONAL AND CONFIDENTIAL

Mr. Jack E. Fleming
4720 Vista View Lane
Colorado Springs, CO 80915

Dear Mr. Fleming:

The Supreme Court has considered your request for a review of the decision of the Grievance Committee Council to return your pro-se complaint and $500 cost deposit filed by you pursuant to Rule 241.11. The Court agrees with the Grievance Committee Counsel that the complaint filed by you is not authorized by Rule 241.11 inasmuch as that rule applies only to those situations in which a grievance complaint is dismissed by an inquiring panel after the Grievance Invest-

igator has filed a report with the panel. In this particular case, however, the original allegations were dismissed pursuant to the Grievance Committee Counsel's determination that an allegation had not been made against a lawyer which would constitute grounds for discipline. Rule 241.9 expressly authorizes the Grievance Committee Counsel to make this determination and, in making that determination, to make such inquiry regarding the underlying facts as Committee Counsel deems appropriate.

Since the decision not to proceed was made pursuant to Rule 241.9, it was unnecessary to conduct the investigation contemplated by Rule 241.10, with the result that the procedures for filing a complaint in your own name pursuant to Rule 241.11 never came into play.

I am sending a carbon copy of this letter under confidential cover to Grievance Committee Counsel, James P. Hollaway, and Attorney Stanley C. Kent.

Sincerely,

/s/ Joseph R. Quinn

Joseph R. Quinn
Chief Justice

JRQ:sc

cc: James P. Hollaway
Committee Counsel
Supreme Court Grievance Committee
Dominion Plaza
600 17th Street, Suite 500 S
Denver, CO 80202-3393

Stanley C. Kent
Attorney at Law
660 Southpointe Court, Suite 210
Colorado Springs, CO 80906